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State vs. Defense

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A State has no power to impose a tax on the transfer of tangible personal property having an actual situs in other states; and in computing the value of an estate for the purpose of applying a transfer tax a State may not include stocks in corporations of other states at their full value without deducting the transfer taxes paid to those states in respect of the same stocks.—Frick vs. Penn., 45 Sup. Ct. Rep. 603.

STATE vs. DEFENSE

The Hon. Herbert S. Hadley, Chancellor of Washington University of St. Louis, in the course of a series of lectures during the year 1925, pointed out the following specific advantages possessed by a person charged with crime over the official representative of society prosecuting the charge:

1. The defendant can insist on a speedy and public trial and profit by denial of this right. The State may urge a public trial. It has no means to enforce it.

2. The defendant must be advised as to the nature and the cause of the charge against him. The State has no right to be advised as to the nature of the defense.

3. The defendant may change his defense during the trial. The State can not amend the indictment or information except in matters of form, and even this right does not exist in a number of states.

4. The defendant must be given a list of the State's witnesses before trial, but the State has no right to know of the witnesses for the defense.

5. The defendant has the right to require the State to present its case in a preliminary hearing, but the State has no right to require the defense to be shown.

6. The defendant has the right to disqualify by affidavit the examining magistrate. Generally the State has no such right.

7. The defendant may challenge the members of the grand jury for cause, but this right is not generally enjoyed by the State.

8. The defendant may ask for a change of venue to another county on the ground of public prejudice, but, with few exceptions, the State can not do so.

9. The defendant may disqualify the trial judge by affidavits alleging prejudice, but, with few exceptions, the State can not.

10. In practically every State the defendant has more peremptory challenges against the trial jury than has the State.

11. The defendant may employ as many lawyers as he is able to hire, but the prosecution, in many states, can not have special counsel.

12. The defendant may comment upon the failure of any State witness to testify, but the State can not comment on the defendant's failure to testify.

13. The State's witnesses may be cross-examined without limit, while, in many states, the defendant can be cross-examined only as to matters testified to on direct examination.

14. The defendant generally is accorded the right to take depositions of witnesses, but the State does not generally possess that right.

15. The defendant can use a transcript of the record of preliminary hearing or coroner's inquest, but the State, except under special circumstances, can not do so.

16. The defendant is presumed to be innocent and may be acquitted on reasonable doubt as to criminal intent even when the act is proved or admitted; the State, however, must prove guilt beyond a reasonable doubt.

17. A defendant pleading insanity is not required to show it beyond a reasonable doubt, but only by a preponderance of the evidence; and, in some states, if a reasonable doubt exists as to the defendant's sanity he must be acquitted on the ground of insanity.

18. The defendant has full right to appeal from all adverse rulings during the trial and from the verdict of guilty. The State has no right to appeal from a verdict of not guilty, and only in a limited number of states can it have the rulings of the trial court upon questions of law reviewed.

19. The defendant may plead former jeopardy if the State's case fails through any mischance, such as absence of a witness; but the State, except in exceptional cases, cannot show previous conviction except to impeach his testimony.

20. The defendant, in many states, can prosecute an appeal at public expense, while the State rarely collects costs from the defendant even when the conviction is affirmed.

21. The defendant may ask for reversal of conviction on any grounds, including severity of punishment, but the State can not on appeal ask that the punishment be increased.

22. A defendant convicted of crime usually has the right to a hearing as to his sanity after conviction, though the State can not ask for the reopening of a case where the defendant has been acquitted on the plea of insanity even though it is prepared to show that the defendant has regained his reason.

23. If all other advantages and methods of which the defendant can avail himself fail to prevent conviction and punishment, he may ask the Governor or pardoning board for a reduction of sentence, parole or pardon.

COMPENSATION FACTS

During the early years of the operation of the North Dakota Workmen's Compensation Bureau a number of the classifications developed deficits instead of profits. Out of the total of 240 different classifications there were 33 having that experience. In about half of the classifications the result was due to an inadequate rate; in the others to an exceptionally high loss experience during the first year or two. The record, at the end of the first five years, showed up the following: